IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 26667 of 2005(Y)

PETITIONER:

K. NATARAJAN, DRAFTSMAN GRADE - I,
GOVERNMENT TECHNICAL HIGH SCHOOL,
KULATHUR, UCHAKKADA P.O., NEYYATTINKARA.

BY ADV. SMT.I.SHEELA DEVI

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, DEPARTMENT OF
TECHNICAL EDUCATION, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. DIRECTOR OF TECHNICAL EDUCATION,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT. R. BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE CIRCULAR NO. 54/92/(130)/FIN. DATED 6.11.1992 ISSUED BY THE FIRST RESPONDENT.

EXT.P2 TRUE COPY OF THE GOVERNMENT ORDER NO. G.O.P.NO. 554/84/(597)/FIN. DATED 27.9.1984 ISSUED BY THE FIRST RESPONDENT.

EXT.P3 TRUE COPY OF THE ORDER NO. EC3/35864/92 DATED 31.7.1992 ISSUED BY 2ND RESPONDENT.

EXT.P4 TRUE COPY OF THE JUDGMENT DATED 18.7.2002 IN OP NO. 13985/1998 OF THE HON'BLE HIGH COURT OF KERALA.

EXT.P5 TRUE COPY OF THE GOVERNMENT ORDER NO. 30767/LB/02/H.EDN. DATED 25.10.2003

EXT.P6 TRUE COPY OF THE PROCEEDINGS NO. EB4/25041/02(ii) DATED 17.2.2004 ISSUED BY THE 2ND RESPONDENT.

EXT.P6(a) TRUE COPY OF THE PROCEEDINGS NO. EB4/25041/02 (ii) DATED 16.4.2004 ISSUED BY THE 2ND RESPONDENT.

EXT.P7 TRUE COPY OF THE JUDGMENT DATED 14.10.2004 IN WPC 30133/2004 (K) OF THE HON'BLE HIGH COURT OF KERALA.

EXT.P8 TRUE COPY OF THE ORDER NO. 370/L3/05/H./EDN. DATED 23.7.2005 ISSUED BY THE GOVERNMENT.

RESPONDENTS' EXHIBITS:

EXT.R2(a) TRUE COPY OF GOVT. LETTER NO. 370/L3/O5/H.EDN. DATED 23.7.2005

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 26667 OF 2005

Dated this the 30th day of January, 2007

JUDGMENT

Petitioner joined as Workshop Attender in a Government Technical School on 27.8.1974. Later petitioner was promoted as Skilled Assistant Grade II on 6.7.1984. In the meantime petitioner acquired Diploma in Mechanical Engineering and consequently, he was appointed as Workshop Instructor on 16.8.1984. Petitioner claimed the benefit of 10 year higher grade after completion of 10 years as Workshop Instructor. Government Pleader submitted that petitioner was given two promotions as Draftsman Gr.II on 17.7.1986 and as Draftsman Grade I on 4.8.1992, both promotions being within 10 years of his joining as Workshop Instructor. While the case of the petitioner is that petitioner is entitled to higher grade treating his appointment by transfer as Workshop Instructor as Entry Cadre, Government Pleader submitted that G.O.P.No. 622/2003 does not permit it. In any case, the question raised in this W.P. is whether petitioner's appointment as Workshop Instructor is appointment by transfer. Petitioner relied on

Exts. P1 and P2 Government orders which make it clear that appointment by transfer will be treated as entry cadre. Obviously petitioner was appointed as Workshop Instructor only by virtue of Diploma he acquired while in service at a lower level. Therefore it is not a case of normal promotion but was a case of entry in service through appointment by transfer from one cadre to another. This position is clarified and second respondent is directed to consider grant of higher grade to the petitioner based on relevant Rules.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge